

REMARKS/ARGUMENTS

Claims 1-10, 12-24, and 30-36 are pending. Claims 1-10 and 34-36 have been withdrawn. Claims 11 and 25-29 have been cancelled. Claims 11-33 have been rejected.

Claim Objections

The Examiner objected to Claim 23 as being inconsistent with Claim 19 from which it depends. Specifically, the Examiner indicated that the language in Claim 23 positively recites a "tibial tray" that is only functionally recited in Claim 19. Applicants have amended Claim 23 to obviate this objection.

The Examiner also objected to the language of Claims 25, 26, 28, and 29. Claims 25, 26, 28, and 29 have been cancelled, obviating the Examiner's objection to the claim language.

Claim Rejections - 35 U.S.C. § 102(b)

Claims 11-20, 24, 30, and 31 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,311,589 to Schmitt (hereinafter "Schmitt '589"). Claim 11 has been cancelled, obviating the Examiner's rejection as to Claim 11.

Schmitt '589 discloses locking pliers 10, shown in Fig. 2, configured for holding cylindrical elongate object 11. Locking pliers 10 include a pair of jaws 13, 14 pivotally coupled together. Connected to jaws 13, 14 are a pair of handles 15, 16 that permit corresponding pivoting of jaws 13, 14 with relative movement of handles 15, 16 towards and away from one another. A locking mechanism is also provided for releaseably holding the jaws in the fixed position with respect to one another. Additionally, V-shaped clamping plate 25 is coupled to jaw 13 via jaw plate 19. Clamping plate 25 has a pair of substantially planar side portions 26, 27 that converge together to form vertex spine 28 therebetween. Vertex spine 28 of clamping plate 25 is preferably coupled to the free ends of arms 21, 22 of jaw plate 19. In use, V-shaped clamping plate 25 is designed for receiving a portion of an elongate object therein. Clamping plate 25 abuts the object so that the object is extended along the V-shaped channel formed by clamping plate 25.

Applicants respectfully submit that amended independent Claims 15 and 30 are not anticipated by Schmitt '589, as Schmitt '589 fails to disclose each and every limitation of amended independent Claims 15 and 30. Specifically, amended independent Claim 15 calls for, *inter alia*, an instrument for gripping a tibial keel component of a modular keel and tray

assembly, the instrument comprising a handle, an attachment mechanism for connecting the instrument to the keel, and a cover, the cover, with the keel component connected to the instrument, selectively positionable over a portion of the keel component to shield the portion of the keel component from contamination. Similarly, amended independent Claim 30 calls for, *inter alia*, a tibial keel holder engageable with a tibial keel component, the tibial keel holder including an attachment mechanism for connecting the tibial keel holder to the tibial keel component and a cover, the cover, with the keel component connected to the tibial keel holder, selectively positionable over a portion of the keel component to shield the portion of the keel component from contamination.

In forming the rejection, the Examiner relies on clamping plate 25 of locking pliers 10 of Schmitt '589 as providing the cover called for in amended independent Claims 15 and 30. Assuming, *arguendo*, that locking pliers 10 of Schmitt '589 may be used to grip a keel component, clamping plate 25 of locking pliers 10 is not, with the keel component connected to locking pliers 10, *selectively positionable* over a portion of the keel component to shield the portion of the keel component from contamination. In contrast, clamping portion 25 of locking pliers 10 of Schmitt '589 is rigidly fixed to jaw plate 19 and jaw 13 of locking pliers 10.

To the extent clamping plate 25 is selectively positionable by movement of handles 15, 16 toward and away from one another, such movement cannot occur *with the keel component connected to* locking pliers 10. Specifically, in order to connect locking pliers 10 to a keel component, side portions 26, 27 of clamping plate 25 must contact the keel component. Once in this position, clamping plate 25 is no longer selectively positionable over a portion of the keel component to shield the portion of the keel component from contamination. In fact, if clamping plate 25 is actuated in a direction away from the keel component, the keel component would no longer be connected to locking pliers 10.

Thus, for at least the foregoing reasons, Applicants respectfully submit that amended independent Claims 15 and 30, as well as Claims 12-14, 16-18, and 31-33 which depend therefrom, respectively, are not anticipated by Schmitt '589.

Applicants respectfully submit that amended independent Claim 19 is not anticipated by Schmitt '589, as Schmitt '589 fails to disclose each and every limitation of amended independent Claim 19.

Specifically, amended independent Claim 19 calls for, *inter alia*, an instrument for gripping a tibial tray component, the instrument including a handle and an attachment mechanism for coupling the instrument to the tray, the attachment mechanism having *a plurality of cantilevered springs*, wherein the plurality of cantilevered springs apply a biasing force against the tray component to connect the instrument to the tray component.

Nowhere does Schmitt '589 disclose a cantilevered spring. Thus, for at least the foregoing reasons, Applicants respectfully submit that amended independent Claim 19, as well as Claims 20-24 which depend therefrom, are not anticipated by Schmitt '589.

Claims 19 and 21-23 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,318,316 to Guilliams (hereinafter "Guilliams '316").

Applicants respectfully submit that amended independent Claim 19 is not anticipated by Guilliams '316, as Guilliams '316 fails to disclose each and every limitation called for in amended independent Claim 19. Specifically, amended independent Claim 19 calls for an instrument for gripping a tibial tray component, the instrument including, *inter alia*, a handle and an attachment mechanism, the attachment mechanism having *a plurality of cantilevered springs*, wherein the plurality of cantilevered springs apply a biasing force against the tray component to connect the instrument to the tray component.

Guilliams '316 discloses locking pliers 11, shown in Fig. 1, having jaws 12, 12a. Jaws 12, 12a are connected to first handle 13 and second handle 16, respectively. Connected to second jaw 12a in handle 13 is coil spring 23, which retains locking pliers 11 in respective open and closed positions. In contrast to amended independent Claim 19, Guilliams '316 fails to disclose a cantilevered spring.

For at least the foregoing reasons, Applicants respectfully submit that amended independent Claim 19, as well as Claims 22-23 which depend therefrom, are not anticipated by Guilliams '316.

Claims 25, 28, and 29 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,238,435 to Meulink et al. Claims 25, 28, and 29 have been cancelled, obviating the Examiner's rejection. Similarly, Claims 25 and 26 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,361,782 to Bauer (hereinafter "Bauer '782"). Claims 25 and 26 have been cancelled, obviating the Examiner's rejection.

Claims 30, 32, and 33 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2003/0229355 to Keller (hereinafter "Keller '355").

Keller '355 discloses instrument body 51, shown in Fig. 1, having opposing holders 52A, 52B for prosthetic plate 53, shown in Fig. 4. Prosthesis holders 52A, 52B are fork-shaped and open at one end. Their side branches form guides for the edge of prosthesis plates 53. Additionally, holders 52A, 52B may be actuated toward and away from one another.

Without admitting that Keller '355 is prior art to the present application, Applicants respectfully submit that amended independent Claim 30 is not anticipated by Keller '355, as Keller '355 fails to disclose each and every limitation called for in amended independent Claim 30. Specifically, amended independent Claim 30 calls for a tibial keel holder engageable with a tibial keel component, the tibial keel holder including, *inter alia*, a first handle, an attachment mechanism, and a cover, the cover, with the keel component connected to the instrument, selectively positionable over a portion of the keel component to shield the portion of the keel component from contamination. Nowhere does Keller '355 disclose a cover, the cover, with a keel component connected to the instrument, selectively positionable over a portion of the keel component to shield the portion of the keel component from contamination, as called for in amended independent Claim 30.

Thus, for at least the foregoing reasons, Applicants respectfully submit that amended independent Claim 30, as well as Claims 32 and 33 which depend therefrom, are not anticipated by Keller '355.

Claim Rejections - 35 U.S.C. § 103(a)

Claim 27 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Bauer '782. However, Claim 27 has been cancelled, obviating the Examiner's rejection.

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Application Serial No. 10/682101
Amendment dated December 26, 2007
Reply to Office Action dated August 22, 2007

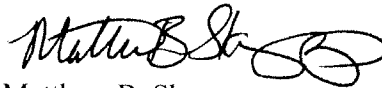
Conclusion

It is believed that the above represents a complete response to the Official Action and reconsideration is requested. Specifically, Applicants respectfully submit that the application is in condition for allowance and respectfully requests allowance thereof.

In the event Applicants have overlooked the need for an additional extension of time, payment of fee, or additional payment of fee, Applicants hereby petition therefor and authorize that any charges be made to Deposit Account No. 02-0385, Baker & Daniels.

Should the Examiner have any further questions regarding any of the foregoing, he is respectfully invited to telephone the undersigned at 260-424-8000.

Respectfully submitted,



Matthew B. Skaggs
Registration No. 55,814

Attorney for Applicants

MBS/nw

BAKER & DANIELS LLP
111 East Wayne Street, Suite 800
Fort Wayne, IN 46802
Telephone: 260-424-8000
Facsimile: 260-460-1700